

02/22/2012

ORDINANCE NO. 49-255

AN ORDINANCE AMENDING SECTIONS 4.04.025 AND 4.12.200 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO INTOXICATING LIQUORS AND BEVERAGES AND REPEALING THE ORIGINALS OF SAID SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 4.04.025 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Alcoholic liquor, minors, incapacitated person—Prohibited acts.

(a) No person shall furnish alcoholic liquor to a minor.

(1) Furnishing alcoholic liquor to a minor is recklessly, directly or indirectly selling, giving, exchanging, buying for, delivering, distributing or in any way furnishing any alcoholic liquor to, for, on behalf of, or at the request of any minor.

(2) As used in this section, all terms have the meanings provided by Section 4.04.010 of the Code of the City of Wichita, Kansas, and amendments thereto.

(3) Any person violating any of the provisions of this subsection shall be guilty of a misdemeanor, and upon a first conviction thereof shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars or by imprisonment for not more than six

months, or by both such fine and imprisonment; and upon a second conviction thereof shall be punished by a fine of not less than three hundred dollars nor more than one thousand dollars or by imprisonment for not more than six months or by both such fine and imprisonment; and upon a third or subsequent conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

(b) It shall be a defense to a prosecution under this section if:

(1) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit, or an employee thereof; and

(2) The defendant sold the alcoholic liquor to the minor with reasonable cause to believe that the minor was twenty-one or more years of age; and

(3) To purchase the alcoholic liquor, the minor exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document containing a photograph of the minor and purporting to establish that such minor was twenty-one or more years of age.

(c) No person shall recklessly, directly or indirectly, sell, give away, dispose of, exchange or deliver, purchase or buy for, distribute or permit the sale, gift or procuring of any alcoholic liquor to, for or on behalf of any person who is

an incapacitated person, or any person who is physically or mentally incapacitated by the consumption of such liquor. Violation of this section is a misdemeanor. Upon first conviction of a violation of this subsection, a person shall be punished by a fine of not less than one hundred dollars nor more than two hundred fifty dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment; and upon a second conviction of a violation of this subsection, a person shall be punished by a fine of not less than two hundred dollars nor more than two hundred fifty dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment; and upon a third or subsequent conviction for a violation of this subsection, a person shall be punished by a fine of two hundred fifty dollars or by imprisonment not exceeding thirty days or by both such fine and imprisonment.

(d) For the purpose of determining whether a conviction is a second, third or subsequent conviction under this section, all convictions for violation of the sections and chapters enumerated herein occurring within the immediately preceding eighteen months, including those prior to the effective date of this section, shall be aggregated and considered together and it is irrelevant whether an offense occurred before or after conviction for a prior offense. “

SECTION 2. Section 4.12.200 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Furnishing cereal malt beverage to persons under legal age for consumption prohibited. (a) It is unlawful for any person to give, furnish, buy for, distribute, exchange or in any way furnish cereal malt beverage,

recklessly, directly or indirectly, to or for any person under the legal age for consumption of cereal malt beverage.

(b) This section shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward.

(c) The defense set forth in Section 4.12.140(c) shall apply to prosecutions under this section.

SECTION 3. The originals of Sections 4.04.025 and 4.12.200 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 4. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of April, 2012.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law